**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| In the Application of: | |
| Jack E. Caveney, et al. | Examiner: James O. Hansen |
| Serial No.: 10/780,320 | Art Unit: 3637 |
| Filed: February 17, 2004 | Confirmation No.: 1108 |
| For: WALL MOUNT CABINET SYSTEM | |

**APPEAL BRIEF**

Dear Examiner Hansen:

Submitted herein is an Appeal Brief as required by 37 C.F.R. § 41.37, as well as an authorization to pay the fee for filing a brief in support of an appeal set forth in 37 C.F.R. § 41.20(b)(2).

## I. REAL PARTY IN INTEREST

Per an assignment recorded for the above-identified application on February 17, 2004, Panduit Corp. is the real party in interest.

## II. RELATED APPEALS AND INTERFERENCES

None.

## III. STATUS OF CLAIMS

Claims 1-10 and 25 stand rejected, and claims 11-24 have been cancelled. Claims 1-10 and 25 are being appealed.

## IV. STATUS OF AMENDMENTS

No amendments have been filed in the above-identified application subsequent to the Final Office Action mailed July 22, 2008.

## V. SUMMARY OF THE CLAIMED SUBJECT MATTER

### A. Independent Claim 1

As shown in FIGS. 1-16 of the present application, and further described in paragraph [0029], independent claim 1 is directed to wall mount cabinet system 20, and more particularly, cabinet 22. As best seen in FIGS. 1-3, and further described in paragraph [0030], cabinet 22 includes rear section 36. As best seen in FIGS. 1-3, and further described in paragraph [0031], rear section 36 includes top side 42, bottom side 44, and first side 48 between top side 42 and bottom side 44. As best seen in FIGS. 5 and 10, and further described in paragraph [0032], cutout 66 extends from first side 48 along a portion of top side 42. As best seen in FIGS. 12-13, cutout 66 receives a plurality of cables 28. As best seen in FIGS. 1-3, and further described in paragraph [0030], cabinet 22 also includes front section 34, which is hingedly connected to rear section 36 at pivot point 38. As best seen in FIGS. 10-11, and further described in paragraph [0032], pivot point 38 is immediately adjacent cutout 66. As best seen in FIGS. 5 and 10, and further described in paragraph [0040], front section 34 includes D-ring 112, which is secured to back edge of front section 34. As best seen in FIGS. 10-11, D-ring 112 is immediately adjacent pivot point 38. As best seen in FIGS. 12-13, D-ring 112 encloses a plurality of cables 28. As best seen in FIGS. 11-13, and further described in paragraphs [0032] and [0040], the proximity of pivot point 38 to cutout 66 and D-ring 112 (FIG. 11) minimizes movement of cables 28 when front section 34 of cabinet 22 is moved from a closed position (FIG. 12) to an open position (FIG. 13).

### B. Independent Claim 25

As shown in FIGS. 1-16 of the present application, and further described in paragraph [0029], independent claim 25 is directed to wall mount cabinet system 20, and more particularly, cabinet 22. As best seen in FIGS. 1-3, and further described in paragraph [0030], cabinet 22 includes rear

section 36. As best seen in FIGS. 1-3, and further described in paragraph [0031], rear section 36 includes top side 42, bottom side 44, and first side 48 between top side 42 and bottom side 44. As best seen in FIGS. 5 and 10, and further described in paragraph [0032], cutout 66 extends from first side 48 along a portion of top side 42. As best seen in FIGS. 12-13, cutout 66 receives a plurality of cables 28. As best seen in FIGS. 1-3, and further described in paragraph [0030], cabinet 22 also includes front section 34, which is hingedly connected to rear section 36 at pivot point 38. As best seen in FIGS. 10-11, and further described in paragraph [0032], pivot point 38 is immediately adjacent cutout 66. As best seen in FIGS. 11-13, and further described in paragraphs [0032] and [0040], the proximity of pivot point 38 to cutout 66 (FIG. 11) minimizes movement of cables 28 when front section 34 of cabinet 22 is moved from a closed position (FIG. 12) to an open position (FIG. 13).

## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claim 25 is unpatentable under 35 U.S.C. § 102(b) over *Hansson* (U.S. Patent No. 5,568,362).

Whether claims 1-10 are unpatentable under 35 U.S.C. § 103(a) over *Hansson* (U.S. Patent No. 5,568,362) in view of *Bullivant* (U.S. Patent No. 5,765,698).

## VII. ARGUMENT

### A. Claim 25

The Examiner rejected claim 25 under 35 U.S.C. § 102(b) as being anticipated by *Hansson* (U.S. Patent No. 5,568,362). For the reasons discussed below, Applicants submit that claim 25 is patentable over *Hansson*.

Claim 25 recites "a cutout extending from the first side along a portion of the top side, wherein the cutout is adapted to receive a plurality of cables." As best seen in FIGS. 5 and 10 of the present application, cutout 66 extends from first side 48 along a portion of top side 42. Additionally, as best seen in FIGS. 12-13, cutout 66 receives a plurality of cables 28. Conversely, as best seen in FIG. 2 of *Hansson*, cable openings 20 are spaced apart from the left side of back door 13 along a portion of lower edge 22. Additionally, as best seen in FIG. 2, each of the cable openings 20 receives one and only one cable 18. Therefore, *Hansson* does not teach or suggest "a cutout extending from the first side along a portion of the top side, wherein the cutout is adapted to receive a plurality of cables," as recited in claim 25.

Additionally, claim 25 recites "a pivot point immediately adjacent the cutout." As best seen in FIGS. 10-11 of the present application, pivot point 38 is immediately adjacent cutout 66. Conversely, as best seen in FIG. 2 of *Hansson*, cable openings 20 are spaced apart from hinges 28. Therefore, *Hansson* does not teach or suggest "a pivot point immediately adjacent the cutout," as recited in claim 25.

Additionally, claim 25 recites "wherein the proximity of the pivot point to the cutout minimizes movement of the plurality of cables when the front section of the cabinet is moved from a closed position to an open position." As best seen in FIGS. 11-13 of the present invention, the proximity of pivot point 38 to cutout 66 (FIG. 11) minimizes movement of cables 28 when front

section 34 of cabinet 22 is moved from a closed position (FIG. 12) to an open position (FIG. 13). Conversely, as best seen in FIG. 2 of *Hansson*, cable openings 20 and tie bracket 23 are spaced apart from hinges 28. When back door 13 is opened, cables 18 move with tie bracket 23 in central casing 10 and away from cable openings 20 in back door 13. To prevent cables 18 from being disconnected, and possibly damaged, cables 18 include excess slack (FIG. 2 and FIG. 5), which can be problematic, especially in environments where space is limited. Therefore, *Hansson* does not teach or suggest "wherein the proximity of the pivot point to the cutout minimizes movement of the plurality of cables when the front section of the cabinet is moved from a closed position to an open position," as recited in claim 25.

Accordingly, for the reasons stated above, the Applicants respectfully submit that claim 25 is patentable over *Hansson*.

**B. Claims 1-10**

The Examiner rejected claims 1, 4, 7, and 9 under 35 U.S.C. § 103(a) as being unpatentable over *Hansson* (U.S. Patent No. 5,568,362) in view of *Bullivant* (U.S. Patent No. 5,765,698). The Examiner also rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over *Hansson* in view of *Bullivant*, and further in view of *Ehrenfels* (U.S. Patent No. 5,239,129). The Examiner further rejected claim 3 under 35 U.S.C. § 103(a) as being unpatentable over *Hansson* in view of *Bullivant*, and further in view of *Neufeld* (U.S. Patent No. 3,623,784). The Examiner also rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over *Hansson* in view of *Bullivant*, and further in view of *Nelson* (U.S. Patent No. 6,061,966). The Examiner further rejected claims 6, 8, and 10 under 35 U.S.C. § 103(a) as being unpatentable over *Hansson* in view of *Bullivant*, and further in view of *Lawrence* (U.S. Patent No. 6,504,100). Claims 1-10 will be argued as a group, and

therefore, dependent claims 2-10 will stand or fall with independent claim 1. For the reasons discussed below, the Applicants respectfully submit that claims 1-10 are patentable over *Hansson*, in view of *Bullivant*.

Claim 1 recites "a cutout extending from the first side along a portion of the top side, wherein the cutout is adapted to receive a plurality of cables." As best seen in FIGS. 5 and 10 of the present application, cutout 66 extends from first side 48 along a portion of top side 42. Additionally, as best seen in FIGS. 12-13, cutout 66 receives a plurality of cables 28. Conversely, as best seen in FIG. 2 of *Hansson*, cable openings 20 are spaced apart from the left side of back door 13 along a portion of lower edge 22. Additionally, as best seen in FIG. 2, each of the cable openings 20 receives one and only one cable 18. Therefore, *Hansson* does not teach or suggest "a cutout extending from the first side along a portion of the top side, wherein the cutout is adapted to receive a plurality of cables," as recited in claim 1.

Additionally, claim 1 recites "a pivot point immediately adjacent the cutout." As best seen in FIGS. 10-11 of the present application, pivot point 38 is immediately adjacent cutout 66. Conversely, as best seen in FIG. 2 of *Hansson*, cable openings 20 are spaced apart from hinges 28. Therefore, *Hansson* does not teach or suggest "a pivot point immediately adjacent the cutout," as recited in claim 1.

Additionally, claim 1 recites "a D-ring secured to a back edge of the front section immediately adjacent the pivot point, wherein the D-ring is adapted to enclose the plurality of cables." As best seen in FIGS. 5 and 10 of the present application, D-ring 112 is secured to back edge of front section 34. Additionally, as best seen in FIGS. 10-11, D-ring 112 is immediately adjacent pivot point 38. Additionally, as best seen in FIGS. 12-13, D-ring 112 encloses a plurality of cables 28.

As acknowledged by the Examiner on P. 4 of the Office Action mailed on July 22, 2008, *Hansson* does not disclose a D-ring. That is, tie bracket 23 of *Hansson* is not a D-ring. The Examiner cites *Bullivant* as an evidence reference. As best seen in FIG. 1 of *Bullivant*, panel assembly 10, and more particularly, panel 20 includes wire holder 116. However, *Hansson* teaches away from a D-ring, and more particularly, wire holder 116.

For example, *Hansson* states:

> The cable openings 20 as well as the back door 13 as a whole are provided with seals 25 and 26, respectively, for sealing off the connector chamber 16 and, thereby, **protecting the cable connections against environmental factors like dust and splashing water or other fluids**.
>
> ...
>
> Since there are effective seals 25, 26 provided on the back door 13 and in the cable openings 20, the circuit boards 30 as well as the multi contact connectors are well **protected against environmental influence, such as dust, splashing water, etc.** This means that a simpler and much less expensive type of connector plugs and jacks may be used, and enables the above described arrangement with the connector jacks 17 mounted directly on the circuit boards 30. This in turn results in a very much simplified wiring inside the cabinet.

COL. 2, LL. 16-20 and 43-52 (emphasis added).

As another example, *Hansson* states:

> Due to the fact that the cable openings 20 are small enough just to let through the cables 18, and that the cables 18 are secured to the tie bracket 23 in the central casing 10, **it is not possible to disconnect the connector plugs 19 without opening the back door 13**.
>
> ...
>
> By locating the cable connections in the form of single or multi contact cable plugs and jacks inside a connector chamber which is closed by a well sealed-off door, there is obtained not only the above mentioned advantages as to a simplified wiring and connector arrangement, but the connector means is **protected against intentional as well as unintentional damage or disconnection** and, thereby, unnecessary disturbance of the tool operation is avoided.

COL. 2, LL. 25-29 and 53-60 (emphasis added).

Replacing the tie bracket 23 of *Hansson* with the wire holder 116 of *Bullivant* would not protect cable connections against environmental factors, such as dust and splashing water or other fluids, or disconnection, and possibly damage, both of which are specifically mentioned as advantages of *Hansson*.

Moreover, even if tie bracket 23 of *Hansson* is replaced with wire holder 116 of *Bullivant*, wire holder 116 would not be "secured to a back edge of the front section immediately adjacent the pivot point," as recited in claim 1, because, as best seen in FIG. 2 of *Hansson*, tie bracket 23 is secured to **the bottom surface** of central casing 10, and **spaced apart** from hinges 28, as best seen in FIG. 2 of *Hansson*.

Therefore, *Hansson* does not teach or suggest "a D-ring secured to a back edge of the front section immediately adjacent the pivot point, wherein the D-ring is adapted to enclose the plurality of cables," as recited in claim 1, and *Bullivant* does not overcome the shortcomings of *Hansson* in this regard.

Additionally, claim 1 recites "wherein the proximity of the pivot point to the cutout and the D-ring minimizes movement of the plurality of cables when the front section of the cabinet is moved from a closed position to an open position." As best seen in FIGS. 11-13 of the present application, the proximity of pivot point 38 to cutout 66 and D-ring 112 (FIG. 11) minimizes movement of cables 28 when front section 34 of cabinet 22 is moved from a closed position (FIG. 12) to an open position (FIG. 13). Conversely, as best seen in FIG. 2 of *Hansson*, cable openings 20 and tie bracket 23 are spaced apart from hinges 28. When back door 13 is opened, cables 18 move with tie bracket 23 in central casing 10 and away from cable openings 20 in back door 13. To prevent cables 18 from being disconnected, and possibly damaged, cables 18 include excess slack (FIG. 2 and FIG. 5),

which can be problematic, especially in environments where space is limited. Therefore, *Hansson* does not teach or suggest "wherein the proximity of the pivot point to the cutout and the D-ring minimizes movement of the plurality of cables when the front section of the cabinet is moved from a closed position to an open position," as recited in claim 1, and *Bullivant* does not overcome the shortcomings of *Hansson* in this regard.

Accordingly, for the reasons stated above, the Applicants respectfully submit that claim 1 is patentable over *Hansson* in view of *Bullivant*. Claims 2-10 are asserted to be allowable based on their dependency from allowable claim 1.

## VIII. CLAIMS APPENDIX

1. A wall mount cabinet comprising:

a rear section having a top side, a bottom side and a first side between the top side and the bottom side, the rear section including a cutout extending from the first side along a portion of the top side, wherein the cutout is adapted to receive a plurality of cables; and

a front section hingedly connected to the rear section at a pivot point immediately adjacent the cutout, the front section having a D-ring secured to a back edge of the front section immediately adjacent the pivot point, wherein the D-ring is adapted to enclose the plurality of cables,

wherein the proximity of the pivot point to the cutout and the D-ring minimizes movement of the plurality of cables when the front section of the cabinet is moved from a closed position to an open position.

2. The wall mount cabinet of claim 1, further comprising a hinged duct or transition duct positioned immediately adjacent the cutout.

3. The wall mount cabinet of claim 1, further comprising two side access panels hingedly connected to the front section.

4. The wall mount cabinet of claim 1, further comprising a front door hingedly connected to the front section, wherein the front door includes a transparent window.

5. The wall mount cabinet of claim 1, further comprising a rod which maintains the front section in an open position about 90 degrees from the rear section.

6. The wall mount cabinet of claim 1, wherein the front section includes a slack cable manager secured to a rail mounted therein.

7. The wall mount cabinet of claim 1, wherein the front section includes a patch panel secured to a rail mounted therein.

8. The wall mount cabinet of claim 1, wherein the front section includes a horizontal cable manager secured to a rail mounted therein.

9. The wall mount cabinet of claim 1, wherein the front section includes active equipment secured to a rail mounted therein.

10. The wall mount cabinet of claim 4, wherein the front section includes a rail mounted therein, the rail is adjustable from adjacent the front door to adjacent the rear section.

25. A wall mount cabinet comprising:

a rear section having a top side, a bottom side and a first side between the top side and the bottom side, the rear section including a cutout extending from the first side along a portion of the top side, wherein the cutout is adapted to receive a plurality of cables; and

a front section hingedly connected to the rear section at a pivot point immediately adjacent the cutout,

wherein the proximity of the pivot point to the cutout minimizes movement of the plurality of cables when the front section of the cabinet is moved from a closed position to an open position.

## IX. EVIDENCE APPENDIX

None.

## X. RELATED PROCEEDINGS APPENDIX

None.

## CONCLUSION

The Applicants respectfully submit that the claims of the present application are in condition for allowance.

If the Examiner has any questions or the Applicants may be of any assistance, the Examiner is invited and encouraged to contact the Attorney for Applicants at the number below.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account No. 16-0228.

Respectfully submitted,

Dated: December 9, 2008

James H. Williams

James H. Williams
Reg. No. 56,883
Attorney for Applicants

Panduit Corp.
Legal Department – TP12
17301 S. Ridgeland Avenue
Tinley Park, Illinois 60477-3091
(708) 532-1800, Ext. 1302